

retary of Transportation determines the claim to be payable.

(2) When there is a loss of an aircraft hull that is (or may be) covered by defense-related aviation insurance, the Secretary of Transportation may make, during the period when a claim for such loss is pending with the Secretary of Transportation, any required periodic payments owed by the insured party to a lessor or mortgagee of such aircraft. Such payments shall commence not later than 30 days following the date of the presentment of the claim for the loss of the aircraft hull to the Secretary of Transportation. If the Secretary of Transportation determines that the claim is payable, any amount paid under this paragraph arising from such claim shall be credited against the amount payable under the aviation insurance. If the Secretary of Transportation determines that the claim is not payable, any amount paid under this paragraph arising from such claim shall constitute a debt to the United States, payable to the insurance fund. Any such amounts so returned to the United States shall be promptly credited to the fund or account from which the payments were made under this paragraph.

(b) SOURCE OF FUNDS FOR PAYMENT OF INDEMNITY.—The Secretary of Defense may pay an indemnity described in subsection (a) from any funds available to the Department of Defense for operation and maintenance, and such sums as may be necessary for payment of such indemnity are hereby authorized to be transferred to the Secretary of Transportation for such purpose.

(c) NOTICE TO CONGRESS.—In the event of a loss that is covered by defense-related aviation insurance in the case of an incident in which the covered loss is (or is expected to be) in an amount in excess of \$10,000,000, the Secretary of Defense shall submit to Congress notification of the loss as soon after the occurrence of the loss as possible and in no event more than 30 days after the date of the loss.

(d) IMPLEMENTING MATTERS.—(1) Payment of indemnification under this section is not subject to section 2214 or 2215 of this title or any other provision of law requiring notification to Congress before funds may be transferred.

(2) Consolidation of claims arising from the same incident is not required before indemnification of the Secretary of Transportation for payment of a claim may be made under this section.

(e) CONSTRUCTION WITH OTHER TRANSFER AUTHORITY.—Authority to transfer funds under this section is in addition to any other authority provided by law to transfer funds (whether enacted before, on, or after the date of the enactment of this section) and is not subject to any dollar limitation or notification requirement contained in any other such authority to transfer funds.

[(f) Repealed. Pub. L. 108–136, div. A, title X, § 1031(a)(60)(B), Nov. 24, 2003, 117 Stat. 1603.]

(g) DEFINITIONS.—In this section:

(1) DEFENSE-RELATED AVIATION INSURANCE.—The term “defense-related aviation insurance” means aviation insurance and reinsurance provided through policies issued by the Secretary of Transportation under chapter 443 of title 49

that pursuant to section 44305(b) of that title is provided by that Secretary without premium at the request of the Secretary of Defense and is covered by an indemnity agreement between the Secretary of Transportation and the Secretary of Defense.

(2) LOSS.—The term “loss” includes damage to or destruction of property, personal injury or death, and other liabilities and expenses covered by the defense-related aviation insurance.

(Added Pub. L. 104–201, div. A, title X, § 1079(a)(1), Sept. 23, 1996, 110 Stat. 2667; amended Pub. L. 108–136, div. A, title X, § 1031(a)(60), Nov. 24, 2003, 117 Stat. 1603; Pub. L. 112–81, div. A, title X, § 1064(10), Dec. 31, 2011, 125 Stat. 1587.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (e), is the date of enactment of Pub. L. 104–201, which was approved Sept. 23, 1996.

AMENDMENTS

2011—Subsec. (c). Pub. L. 112–81 substituted “\$10,000,000” for “\$1,000,000”.

2003—Subsec. (c). Pub. L. 108–136, § 1031(a)(60)(A), struck out designation for par. (1) before “notification of the loss”, substituted “Congress” for “Congress—” and “loss.” for “loss; and”, and struck out par. (2) which read as follows: “semiannual reports thereafter updating the information submitted under paragraph (1) and showing with respect to losses arising from such incident the total amount expended to cover such losses, the source of those funds, pending litigation, and estimated total cost to the Government.”

Subsec. (f). Pub. L. 108–136, § 1031(a)(60)(B), struck out heading and text of subsec. (f). Text read as follows: “Not later than March 1 of each year, the Secretary of Defense shall submit to Congress a report setting forth the current amount of the contingent outstanding liability of the United States under the insurance program under chapter 443 of title 49.”

§ 9515. Charter air transportation services: minimum annual purchase amount for carriers participating in Civil Reserve Air Fleet

(a) IN GENERAL.—The Secretary of Defense shall take steps to—

(1) improve the predictability in Department of Defense charter requirements;

(2) strengthen Civil Reserve Airlift Fleet participation to assure adequate capacity is available to meet steady-state, surge and mobilization requirements; and

(3) provide incentives for commercial air carriers to provide newer, more efficient and reliable aircraft for Department of Defense service rather than older, fully depreciated aircraft.

(b) CONSIDERATION OF RECOMMENDATIONS.—In carrying out subsection (a), the Secretary of Defense shall consider the recommendations on courses of action for the Civil Reserve Air Fleet as outlined in the report required by section 356 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181).

(c) CONTRACTS FOR CHARTER AIR TRANSPORTATION SERVICES.—The Secretary of Defense may award to an air carrier or an air carrier contractor team arrangement participating in the Civil Reserve Air Fleet on a fiscal year basis a one-year contract for charter air transpor-

tation services with a minimum purchase amount under such contract determined in accordance with this section.

(d) **ELIGIBLE CHARTER AIR TRANSPORTATION CARRIERS.**—In order to be eligible for payments under the minimum purchase amount provided by this section, an air carrier (or any air carrier participating in an air carrier contractor team arrangement)—

(1) if under contract with the Department of Defense in the prior fiscal year, shall have an average on-time pick up rate, based on factors within such air carrier's control, of at least 90 percent;

(2) shall offer such amount of commitment to the Civil Reserve Air Fleet in excess of the minimum required for participation in the Civil Reserve Air Fleet as the Secretary of Defense shall specify for purposes of this section; and

(3) may not have refused a Department of Defense request to act as a host for other Civil Reserve Air Fleet carriers at intermediate staging bases during the prior fiscal year.

(e) **AGGREGATE MINIMUM PURCHASE AMOUNT.**—

(1) The aggregate amount of the minimum purchase amount for all contracts awarded under subsection (c) for a fiscal year shall be based on forecast needs, but may not exceed the amount equal to 80 percent of the average annual expenditure of the Department of Defense for charter air transportation services during the five-fiscal year period ending in the fiscal year before the fiscal year for which such contracts are awarded.

(2) In calculating the average annual expenditure of the Department of Defense for charter air transportation services for purposes of paragraph (1), the Secretary of Defense shall omit from the calculation any fiscal year exhibiting unusually high demand for charter air transportation services if the Secretary determines that the omission of such fiscal year from the calculation will result in a more accurate forecast of anticipated charter air transportation services for purposes of that paragraph.

(f) **ALLOCATION OF MINIMUM PURCHASE AMONG CHARTER AIR TRANSPORTATION CONTRACTS.**—(1) The aggregate amount of the minimum purchase amount for all contracts awarded under subsection (c) for a fiscal year, as determined under subsection (e), shall be allocated among all air carriers and air carrier contractor team arrangements awarded contracts under subsection (c) for such fiscal year in proportion to the commitments of such carriers to the Civil Reserve Air Fleet for such fiscal year.

(2) In determining the minimum purchase amount payable under paragraph (1) under a contract under subsection (c) for charter air transportation services provided by an air carrier or air carrier contractor team arrangement during the fiscal year covered by such contract, the Secretary of Defense may adjust the amount allocated to such carrier or arrangement under paragraph (1) to take into account periods during such fiscal year when charter air transportation services of such carrier or a carrier in such arrangement are unavailable for usage by the Department of Defense, including during periods of refused business or suspended operations

or when such carrier is placed in nonuse status pursuant to section 2640 of this title for safety reasons.

(g) **DISTRIBUTION OF AMOUNTS.**—If any amount available under this section for the minimum purchase of charter air transportation services from a carrier or air carrier contractor team arrangement for a fiscal year under a contract under subsection (c) is not utilized to purchase charter air transportation services from the carrier or arrangement in such fiscal year, such amount shall be provided to the carrier or arrangement before the first day of the following fiscal year.

(h) **COMMITMENT OF FUNDS.**—(1) The Secretary of each military department shall transfer to the transportation working capital fund a percentage of the total amount anticipated to be required in such fiscal year for the payment of minimum purchase amounts under all contracts awarded under subsection (c) for such fiscal year equivalent to the percentage of the anticipated use of charter air transportation services by such military department during such fiscal year from all carriers under contracts awarded under subsection (c) for such fiscal year.

(2) Any amounts required to be transferred under paragraph (1) shall be transferred by the last day of the fiscal year concerned to meet the requirements of subsection (g) unless minimum purchase amounts have already been distributed by the Secretary of Defense under subsection (g) as of that date.

(i) **AVAILABILITY OF AIRLIFT SERVICES.**—(1) From the total amount of charter air transportation services available for a fiscal year under all contracts awarded under subsection (c) for such fiscal year, a military department shall be entitled to obtain a percentage of such services equal to the percentage of the contribution of the military department to the transportation working capital fund for such fiscal year under subsection (h).

(2) A military department may transfer any entitlement to charter air transportation services under paragraph (1) to any other military department or to any other agency, element, or component of the Department of Defense.

(j) **DEFINITION.**—In this section, the term “charter air transportation” has the meaning given such term in section 40102(14) of title 49.

(Added Pub. L. 110-417, [div. A], title X, §1033(a), Oct. 14, 2008, 122 Stat. 4591; amended Pub. L. 111-383, div. A, title X, §1075(b)(50), Jan. 7, 2011, 124 Stat. 4371; Pub. L. 112-239, div. A, title X, §§1055, 1076(b)(4), (f)(44), Jan. 2, 2013, 126 Stat. 1938, 1949, 1955; Pub. L. 116-283, div. A, title III, §342, Jan. 1, 2021, 134 Stat. 3538.)

REFERENCES IN TEXT

Section 356 of the National Defense Authorization Act for Fiscal Year 2008, referred to in subsec. (b), is section 356 of Pub. L. 110-181, div. A, title III, Jan. 28, 2008, 122 Stat. 74, which is not classified to the Code.

AMENDMENTS

2021—Subsec. (k). Pub. L. 116-283 struck out subsec. (k). Text read as follows: “The authorities in this section shall expire on December 31, 2020.”

2013—Subsec. (a)(3). Pub. L. 112-239, §1055(b)(1), struck out “passenger” after “commercial air”.

Subsec. (b). Pub. L. 112-239, §1076(f)(44), substituted “required by section 356 of the National Defense Au-

thorization Act for Fiscal Year 2008” for “required by section 1356 of the National Defense Authorization Act for Fiscal Year 2008”.

Subsec. (j). Pub. L. 112-239, §1076(b)(4), made technical amendment to directory language of Pub. L. 111-383, §1075(b)(50)(C). See 2011 Amendment note below.

Pub. L. 112-239, §1055(b)(2), struck out “, except that it only means such transportation for which the Secretary of Defense has entered into a contract for the purpose of passenger travel” before period at end.

Subsec. (k). Pub. L. 112-239, §1055(a), substituted “December 31, 2020” for “December 31, 2015”.

2011—Subsec. (b). Pub. L. 111-383, §1075(b)(50)(A), which directed substitution of “section 1356 of the National Defense Authorization Act for Fiscal Year 2008” for “Section 1356 of the National Defense Authorization Act for 2008” was executed by making the substitution for “Section 356 of the National Defense Authorization Act for 2008” to reflect the probable intent of Congress.

Subsec. (f)(2). Pub. L. 111-383, §1075(b)(50)(B), substituted “arrangement under paragraph (1)” for “arrangement under paragraph (2)”.

Subsec. (j). Pub. L. 111-383, §1075(b)(50)(C), as amended by Pub. L. 112-239, §1076(b)(4), struck out “United States Code,” after “title 49.”

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by section 1076(b)(4) of Pub. L. 112-239 effective Jan. 7, 2011, and as if included in Pub. L. 111-383 as enacted.

REPORT TO CONGRESS; LIMITATION ON EXERCISE OF AUTHORITY

Pub. L. 110-417, [div. A], title X, §1033(c), Oct. 14, 2008, 122 Stat. 4593, provided that:

“(1) REPORT.—The Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a written report on the actions taken under subsections (a) and (b) of section 9515 of title 10, United States Code, as added by subsection (a), along with the anticipated risks and benefits of such actions.

“(2) LIMITATION.—No authority under subsections (c) through (I) [sic] of such section may be implemented until 30 days after the date on which the Secretary submits the report required under paragraph (1).”

§ 9516. Airlift service

(a) INTERSTATE TRANSPORTATION.—(1) Except as provided in subsection (d) of this section, the transportation of passengers or property by CRAF-eligible aircraft in interstate air transportation obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service in the United States may be provided only by an air carrier that—

(A) has aircraft in the civil reserve air fleet or offers to place the aircraft in that fleet; and

(B) holds a certificate issued under section 41102 of title 49.

(2) The Secretary of Transportation shall act as expeditiously as possible on an application for a certificate under section 41102 of title 49 to provide airlift service.

(b) TRANSPORTATION BETWEEN THE UNITED STATES AND FOREIGN LOCATIONS.—Except as provided in subsection (d), the transportation of passengers or property by CRAF-eligible aircraft between a place in the United States and a place outside the United States obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service shall be provided by an air carrier referred to in subsection (a).

(c) TRANSPORTATION BETWEEN FOREIGN LOCATIONS.—The transportation of passengers or property by CRAF-eligible aircraft between two places outside the United States obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service shall be provided by an air carrier referred to in subsection (a) whenever transportation by such an air carrier is reasonably available.

(d) EXCEPTION.—When the Secretary of Defense decides that no air carrier holding a certificate under section 41102 of title 49 is capable of providing, and willing to provide, the airlift service, the Secretary of Defense may make a contract to provide the service with an air carrier not having a certificate.

(e) CRAF-ELIGIBLE AIRCRAFT DEFINED.—In this section, “CRAF-eligible aircraft” means aircraft of a type the Secretary of Defense has determined to be eligible to participate in the civil reserve air fleet.

(Added Pub. L. 113-291, div. A, title X, §1042(a), Dec. 19, 2014, 128 Stat. 3492.)

§ 9517. Level of readiness of Civil Reserve Air Fleet carriers

The Civil Reserve Air Fleet program is an important component of the military airlift system in support of United States defense and foreign policies, and it is the policy of the United States to maintain the readiness and interoperability of Civil Reserve Air Fleet carriers by providing appropriate levels of peacetime airlift augmentation to maintain networks and infrastructure, exercise the system, and interface effectively within the military airlift system.

(Added Pub. L. 114-92, div. A, title X, §1085(b)(1), Nov. 25, 2015, 129 Stat. 1005.)

FINDINGS

Pub. L. 114-92, div. A, title X, §1085(a), Nov. 25, 2015, 129 Stat. 1004, provided that: “Congress finds the following:

“(1) The National Airlift Policy states that ‘[t]he national defense airlift objective is to ensure that military and civil airlift resources will be able to meet defense mobilization and deployment requirements in support of US defense and foreign policies.’

“(2) The National Airlift Policy also emphasizes the need for ‘dialogue and cooperation with our national aviation industry,’ and it states that ‘[i]t is of particular importance that the aviation industry be apprised by the Department of Defense of long-term requirements for airlift in support of national defense.’

“(3) The National Airlift Policy emphasizes the importance of both military and civil airlift resources and their interdependence in the fulfillment of the national defense airlift objective, and it states that the ‘Department of Defense shall establish appropriate levels for peacetime cargo airlift augmentation in order to promote the effectiveness of Civil Reserve Air Fleet and provide training within the military airlift system.’

“(4) Civil Reserve Air Fleet carriers continue to be an important component of the military airlift system in support of United States defense and foreign policies.”

CHAPTER 963—PROCUREMENT

Sec. [9531. 9532.	Repealed.] Factories, arsenals, and depots: manufacture at.
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